

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

BRYAN P. SPENCE, TYLER W. STEF,
RYAN CORCORAN, MITCHELL B. PIKE,
STEVEN R. HAYNES, ANDREW GRIEB,
DANIELLE A. RUNYAN, CHRISTOPHER M.
WU, and ALAN SOSEBEE, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity
as United States Secretary of Defense,
THE UNITED STATES DEPARTMENT OF
DEFENSE, and FRANK KENDALL, in his official
capacity as United States Secretary of the Air Force,

Defendants.

Case No: 4:22-cv-453-O

MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs Bryan P. Spence, Tyler W. Stef, Ryan Corcoran, Mitchell B. Pike, Steven R. Haynes, Andrew Grieb, Danielle A. Runyan, Christopher M. Wu, and Alan Sosebee, by and through counsel, and pursuant to Federal Rule of Civil Procedure 65, respectfully move this Court for a temporary restraining order and preliminary injunction against Defendants' vaccine mandate.

In support of this Motion, Plaintiffs rely on the following:

1. The Brief in support of this Motion, filed contemporaneously herewith;
2. The Defendants' memorandums outlining their COVID-19 vaccine mandates (listed below), and the sworn statements of the Plaintiffs, included in the Appendix in support of this Motion, filed contemporaneously herewith;

3. The Complaint, filed contemporaneously herewith; and

4. All further evidence necessary to support this Motion, filed hereafter or presented at any hearing on this Motion.

Plaintiffs respectfully request the following relief:

1. A temporary restraining order and preliminary injunction against Defendants and their agents, servants, employees, attorneys, and all persons and entities directly or indirectly in active concert or participation with them that prohibits them from application of their facially discriminatory policies:

- a. Secretary of Defense – Memorandum for Senior Pentagon Leadership, Commanders of the Combatant Commands, Defense Agency and DOD Field Activity Directors: Mandatory Coronavirus Disease 2019 Vaccination of Department of Defense Service Members, August 24, 2021;
- b. Secretary of the Air Force – Memorandum for Department of the Air Force Commanders: Mandatory Coronavirus Disease 2019 Vaccination of Department of the Air Force Military Members, September 3, 2021; and
- c. Secretary of the Air Force – Memorandum for ALMAJCOM-FLDCOM-FOA-DRU/CC Distribution C: Supplemental Coronavirus Disease 2019 Vaccination Policy, December 7, 2021.

2. A temporary restraining order and preliminary injunction against Defendants and their agents, servants, employees, attorneys, and all persons and entities directly or indirectly in active concert or participation with them that prohibits them from applying their practice of:

- a. across-the-board denial of religious accommodation requests for COVID-19 vaccination from servicemembers who are not already voluntarily leaving the military;
- b. differential treatment of accommodation requests for the COVID-19 vaccination for secular reasons and accommodation requests for religious reasons; and
- c. retributive or negative action against servicemembers who make or have made religious accommodation requests.

3. A temporary restraining order and preliminary injunction against Defendants and their agents, servants, employees, attorneys, and all persons and entities directly or indirectly in active concert or participation with them that prohibits them from making non-receipt of COVID-19 vaccination or submission of a request for a religious accommodation from COVID-19 vaccination a basis for any adverse action against any servicemembers including, but not limited to: administrative counselings, admonishments, or reprimands; nonjudicial punishment or separation from service; involuntary placement in the Individual Ready Reserve; change in job titles or duties, removal from assignments, or non-issuance of assignments; negative performance reviews, promotion recommendations, or stratifications; giving a less than honorable discharge; recoupment of education or training expenses; determination of medical disqualification or non-deployability; loss or delay of promotion, training opportunities, or retirement; loss of bonuses, pay or benefits; or precluding servicemembers from traveling to and performing duty in person, unless Defendants can prove that failing to take a particular adverse action against the

servicemember in question would likely have a real and concrete (not theoretical) adverse impact on a compelling government interest.

Plaintiffs' request a waiver of any bond required by Federal Rule of Civil Procedure 65(c) as these issues involve the free exercise of religion, there is no money at stake in issuance of the injunction, and no financial impact on the Defendants. *See Kaepa, Inc. v. Achilles Corp.*, 76 F.3d 624, 628 (5th Cir. 1996) (recognizing district courts have discretion to waive the bond requirement of Rule 65(c)); *see also Gordon v. City of Hous.*, 79 F. Supp. 3d 676, 695 (S.D. Tex. 2015) (waiving Rule 65 bond in First Amendment Lawsuit).

WHEREFORE, Plaintiffs respectfully request that the Court grant this Motion for Temporary Restraining Order and Preliminary Injunction against the Defendants.

May 27, 2022

Respectfully submitted,

/s/ Cristina M. Squiers

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**Pro hac vice* motions forthcoming.
** Not yet admitted in D.C. Practicing
under the supervision of D.C. bar
members.

CERTIFICATE OF CONFERENCE

Plaintiffs' counsel were unable to conference this Motion with Defendants' counsel because no counsel has appeared for Defendants. However, once counsel for Defendants file appearances, Plaintiffs' counsel will confer with them.

/s/ Cristina M. Squiers
Cristina M. Squiers

CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2022, I electronically filed the foregoing document through the Court's ECF system and will serve a copy on each of the Defendants according to the Federal Rules of Civil Procedure.

/s/ Cristina M. Squiers
Cristina M. Squiers